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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/747,293	12/22/2000	James Wilkie	SSI-011	2615

21323 7590 09/30/2003

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EXAMINER

TELLER, ROY R

ART UNIT	PAPER NUMBER
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1654

DATE MAILED: 09/30/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,293

Applicant(s)

WILKIE ET AL.

Examiner

Roy Teller

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 82,84-86 and 168-211 is/are pending in the application.
- 4a) Of the above claim(s) 168-211 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 82 and 84-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 12.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

This office action is in response to Paper No: 10, received 7/8/03, in which applicant canceled claims 83, 89, 90 and 97; amended claims 82, and 84-86; and added new claims 168-211.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 168-211 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claims 82 and 84-86 are pending.

Information Disclosure Statement

The information disclosure statement received 7/8/03 (Paper No: 12) is acknowledged. A signed copy is enclosed hereto.

Claim Rejections - 35 USC § 103

The rejection under 35 U.S.C. 103(a) of claims 82, and 84-86 is maintained for reasons of record. Applicant's declaration was not found persuasive based on the third paragraph of the declaration, in which applicant states that original notebook records demonstrate an actual

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reduction to practice of the claimed invention prior to August 6, 1997. The declaration nor the lab notes contain a date which shows when the claimed invention was reduced to practice.

New Rejection

Claim Rejections - 35 USC § 103

Claims 82 and 84-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barrows (USPN 5,583,114).

The claimed invention and Barrows teachings are described in Paper No: 8. Barrows describes a second component of the mixture as a water-soluble crosslinking agent (see abstract). Barrows discloses the preferred crosslinking agent include polyethylene glycol (see column 2, lines 37-38). A web search of the SIGMA-ALDRICH web site (www.sigma.com) under the keyword “surfactants” listed poly(ethylene glycol) monolaurate.

It would have been *prima facie* obvious to one of ordinary skill in the art at the time the invention was made to have used the composition of Barrows, as the invention is related to an adhesive composition which may be used to bond or seal tissue *in vivo* (see abstract).

Conclusion

All claims are rejected.

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Applicant's action necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roy Teller whose telephone number is (703)305-4243. The examiner can normally be reached on Monday-Friday from 5:30 am to 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brenda Brumback, can be reached on (703) 306-3220. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0196.

RT
1654
9/29/03

RT



CHRISTOPHER R. TATE
PRIMARY EXAMINER